

OPINION
49-68

August 22, 1949 (OPINION)

GAME AND FISH

RE: Confiscation of Gun

Re: Sections 20-1001 and 20-1003 1943 Revised Code

Your letter of August 20, re the above sections, has been received.

It is the opinion of this office that under the provisions of sections 20-1001 and 20-1003 any gun used by any person in the unlawful killing of game or unlawful hunting with intent to kill game is subject to confiscation. It makes no difference that the gun may belong to someone else. There may be some question if the gun is used without the knowledge of the owner whether or not he could reclaim the gun. Certainly if he allowed the use of the gun unlawfully, it would be subject to confiscation against him as well as the hunter. As you suggested in your letter, no gun could ever be confiscated, because the hunter using it unlawfully would claim that the gun belonged to someone else. The only reasonable procedure would be to seize the gun and if it actually does belong to someone else who can show that it was used without his consent, it might be returned to him.